

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,906
)
Appeal of)
)

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) reducing the family's food stamps based on her receipt of Essential Person benefits.

FINDINGS OF FACT

1. The petitioner and her husband are Food Stamp recipients. The petitioner's husband is disabled and he receives \$473 per month in disability benefits. The petitioner is his caretaker and has received \$483 per month in Essential Person benefits since October of 2003. The petitioner is also going to college.

2. Although the petitioner reported the Essential Person benefits to PATH some time ago, PATH failed to include her benefits in the calculation of the family's food stamp allotment. A worker reviewing the case noticed the error in January of 2004 and recalculated the family's eligibility.

3. On January 16, 2004, the petitioner was mailed a notice telling her that her Food Stamps would be reduced from \$259 per month to \$39 per month based on the inclusion of her essential person income. The calculations that were included with the letter showed that \$473 was counted as the husband's income, \$483 as the petitioner's income and that both were subjected to a \$134 standard deduction.

4. The petitioner was given a deduction of the amount of her shelter cost that exceeded 50 percent of her income. The shelter amount used for the petitioner is \$118 per month for rent (she is in publicly subsidized housing) and \$383 representing the maximum utility allowance found in the regulations for a total of \$501. The petitioner agrees that her actual shelter expense does not exceed this amount monthly. In fact, her utilities are included in her rent.¹ Because she had more household income that month, the percentage which went to pay her unchanged shelter expense was less. Her excess shelter allowance was decreased from \$337 per month to \$91 per month.

¹ The petitioner was still allowed the maximum utility allowance deduction because of a provision in the Food Stamp regulations which allows such an attribution if a family receives fuel assistance.

5. The final countable income used by PATH to determine the petitioner's eligibility for Food Stamps was \$731. PATH determined that this amount entitled the petitioner and her husband to \$39 in Food Stamps.

6. The petitioner says that her bills exceed the amount of her family's income and that in addition to truck and insurance expenses they must buy Ensure for her husband's health every month. The Ensure expenses just started and were not previously reported to PATH. PATH said it would consider those expenses as soon as they were reported for a future adjustment in the food stamp amount. The petitioner also feels it is wrong for PATH to count her Essential Person income.

ORDER

The decision of PATH reducing the Food Stamp benefits is affirmed.

REASONS

Under the Food Stamp Regulations, the amount of a household's monthly allotment is determined according to household income minus any applicable deductions. F.S.M. § 273.9 et. seq. All income, from whatever source, unless specifically excluded is countable as household income.

F.S.M. 273.9(b). Essential benefits are not specifically excluded, rather they are included in the definition of unearned income as a federally aided public assistance program based on need. F.S.M. 273.9(b)(2)(I).

All households with two persons are entitled to a standard deduction of \$134 (F.S.M. § 372.9d(1), Procedures Manual P-2590A) and to an excess shelter deduction in the amount that their shelter costs exceed fifty percent of their countable income after deductions. (F.S.M. § 273.9d(5)).

The petitioner's household gross income, including both disability and essential person benefits was \$956 per month. PATH gave the petitioner a standard deduction of \$134 for a countable total of \$822 per month. The petitioner presented no other evidence at that time that she had any other possible expense deductions other than shelter.

The petitioner's shelter allowance of \$501 per month was correctly calculated by adding her actual rent of \$118 (which, in fact, includes utilities) to the maximum utility allowance of \$383 which the petitioner receives by virtue of her fuel assistance eligibility even though she has no actual expense in that area. See F.S.M. 273.9d(6)(ii)(c), P-2590A(5). The amount by which that shelter allowance exceeds fifty percent of the petitioner's countable income of \$822 per month is \$90

(\$501 (the shelter cost) - \$411 (half of the countable income)).² That \$90 is further deducted from the \$822 for a total countable income \$732.

A household of two with \$732 (or \$731 in income as PATH calculated) is entitled to \$39 in monthly Food Stamps under PATH's regulations. P-2590D8. It must be found that PATH acted in accordance with its regulations in calculating the amount of the petitioner's family's food stamps. The Board must therefore uphold its decision. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

The petitioner has been advised that she should submit her uncovered medical expenses to PATH to see if she is eligible for a further deduction. The petitioner should be aware that she can also submit dependent care or child support expenses if either she or her husband has such expenses. The regulations do not allow deductions for car or insurance payments.

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² The calculations provided by PATH showed a \$91 difference. The dollar mistake in the calculations does not make a difference in this case.